

ELVIRA DE GALLARDO ,  
Plaintiff,  
v.  
COMMISSIONER OF SOCIAL  
SECURITY,  
Defendant.

CIVIL ACTION NO. 5:18-cv-472 (MTT)

Plaintiff Elvira De Gallardo moves for attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, in the amount of \$7,761.60. Doc. 26. The motion is unopposed. Pursuant to the Equal Access to Justice Act ("EAJA"), "a court shall award to a prevailing party other than the United States fees and other expenses . . . incurred by that party in any civil action (other than cases sounding in tort) . . . brought by or against the United States . . . unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust." 28 U.S.C. § 2412(d)(1)(A). "Fees and other expenses" include reasonable attorney's fees. 28 U.S.C. § 2412(d)(2)(A). "Attorney fees shall not be awarded in excess of \$125 per hour unless the court determines that an increase in the cost of living or a special factor . . . justifies a higher fee." *Id.*

The Plaintiff obtained a court order remanding her Social Security claim to the Commissioner, so she is a prevailing party for purposes of the EAJA. Doc. 25; *Shalala*

*v. Schaefer*, 509 U.S. 292, 300–01, 113 S.Ct. 2625 (1993). After reviewing the petition, the Court finds that the Government’s position was not “substantially justified,” the Plaintiff’s requested rate of \$201.60 is reasonable and justified by cost of living increases, and the Plaintiff’s requested 38.5 hours are reasonable. Based on that rate and number of hours, the Court finds that the Plaintiff is entitled to an award of \$7,761.60 in attorney’s fees.

The Plaintiff’s motion for attorney’s fees (Doc. 26) is **GRANTED**, and the Plaintiff is awarded \$7,761.60 in attorney’s fees.

**SO ORDERED**, this 11th day of February, 2020.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT